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S.B. CIVIL MISC. APPEAL NO.538/2007.
Smt. Leela & Ors. Vs. Amar Puri & Ors.

Date of Order :: 6th February 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. S.K. Sankhla, for the appellants.

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BY THE COURT:

For awarding compensation to the dependents of vehicular accident victim Khama Ram alias Kheta Ram, about 27 years in age and said to be working as a driver, the Tribunal has taken the income of the deceased at Rs.3,000/- per month and after deducting one-third on his personal expenditure and with application of multiplier of 18, has assessed pecuniary loss at Rs. 4,32,000/-; and after allowing Rs.30,000/- towards non-pecuniary loss and further Rs. 5,000/- towards funeral expenses, has made the award in the sum of Rs.4,67,000/- in favour of the claimants. After adjustment of Rs.50,000/- received under No Fault Liability, the Tribunal has also allowed interest @ 7.5% per annum from the date of filing of the claim application.

Learned counsel for the claimant-appellants seeking enhancement over the amount so awarded by the

Tribunal has strenuously contended that the Tribunal has erred in putting an estimate on the income of the deceased only at Rs.3,000/- per month though the employer of the deceased Gajendra Singh himself appeared in evidence as DW-2 and admitted his making payment of Rs. 4,000/- per month to the deceased.

Having given a thoughtful consideration to the submissions made by the learned counsel and having examined the impugned award, this Court is satisfied that this appeal for enhancement over the amount of compensation awarded by the Tribunal remains bereft of substance and deserves to be dismissed without being admitted.

Mere oral assertion of the alleged employer of the deceased, who is none else than the non-applicant No.2, being the owner of the vehicle involved in the accident, cannot be accepted for want of corroborative documentary evidence. If such employer was making payment of salary to the deceased, allegedly as a second driver on the truck, at Rs.4,000/- per month, it could have been established by documentary evidence in the form of payment vouchers and account books. Learned counsel for the appellant has read over the statement made by the said employer, Gajendra Singh DW-2 and it appears that such cursory statement has been made by him only in cross-examination by the claimants. In the

circumstances of this case, the Tribunal cannot be said to have erred in putting an estimate on the income of the deceased at Rs.3,000/- per month.

Moreover, the Tribunal has applied maximum side multiplier of 18 and has allowed rather liberally the amount towards the non-pecuniary loss and has not restricted even on the rate of interest.

Viewed from any angle, the award remains not less than that of just compensation admissible in this case, ruling out any scope for enhancement.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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